

**Letter Report:
Chief Counsel Properly Administered
Fees Paid for Internal
Revenue Service Guidance**

November 2000

Reference Number: 2001-10-011

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

November 9, 2000

MEMORANDUM FOR CHIEF COUNSEL

A handwritten signature in cursive script, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Letter Report – Chief Counsel Properly Administered Fees
Paid for Internal Revenue Service Guidance

This report presents the results of our review of Chief Counsel's administration of user fees. In summary, we found that Chief Counsel's employees generally ensured that the proper fees were received and that refunds were properly approved, necessary, and supported. We did note, however, that user fee payments were not always timely endorsed and deposited. We recommended that Chief Counsel establish procedures to ensure cases are screened daily to allow for timely deposits.

Chief Counsel agreed with the recommendation in this report. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the Internal Revenue Service managers who are affected by the report recommendation. Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Objective and Scope

Our objective was to determine whether Chief Counsel properly administered the user fees received, collected the proper fees, and refunded fees when appropriate.

The objective of this audit was to determine whether Chief Counsel properly administered the user fees received, collected the proper fees, and refunded fees when appropriate.

To accomplish this, we obtained a computer extract of user fees received and user fees refunded during Fiscal Year (FY) 1999. During FY 1999, Chief Counsel received 7,798 fees for about \$9.5 million and refunded 1,031 fees for about \$1 million. We discussed and observed procedures for processing deposits and issuing refunds. We selected 6 different judgmental samples totaling 120 cases to determine whether user fees were properly controlled, the correct fees were received, and refunds were proper. See Appendix I for a detailed description of how the samples were selected.

This audit was performed in accordance with *Government Auditing Standards* between February and July 2000. We conducted our audit in the Office of the Chief Counsel in Washington, D.C.

Major contributors to this report are listed in Appendix II. The Report Distribution List is presented in Appendix III.

Background

The Revenue Act of 1987¹ provided that the Secretary of the Treasury or his delegate establish a program requiring the payment of user fees for requests to the Internal Revenue Service (IRS) for rulings, opinion letters, determination letters, and similar requests. The fees vary according to the categories or subcategory established by the Secretary and after taking into account the average time for, and difficulty of,

¹ Pub. L. No. 100-203, 101 Stat. 1330-446.

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complying with each category or subcategory. User fees are to be paid in advance. Exemptions and reduced fees may be provided as the Secretary deems appropriate, but the average fee applicable to each category must not be less than the amount specified by statute.

Revenue Procedure 99-1, dated January 4, 1999, instructs taxpayers on how to request guidance and submit a user fee. All requests are submitted to the user fee unit in Washington, D.C., for processing.

Results

Chief Counsel properly administered user fees submitted with requests for guidance.

Chief Counsel properly administered user fees submitted with requests for guidance. In the cases reviewed, Chief Counsel employees had ensured that the proper fees were received. In addition, taxpayers were appropriately charged a reduced fee when their income was under prescribed limits and no fee when a determination could not be made. The user fee unit employees also prepared the deposit packages that were transmitted to the bank by a bonded courier.

Overall, Chief Counsel employees ensured that refunds were properly approved, necessary, and supported. For example, in the refunds sampled, attorneys had appropriately supported decisions not to rule on requests for legal services and to refund the user fee payments when appropriate. In addition, we verified that the refunds were sent to the proper addresses.

During FY 1999, Chief Counsel took an average of 175 days to refund over 1,000 fees. The elapsed time appeared to be reasonable because many of these requests needed to be analyzed after initial screening by attorneys before a refund determination could be made.

Although user fees were generally administered properly, improvements to the program could be made to ensure user fee payments are timely endorsed and deposited.

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**User Fee Payments Were Not Always Timely
Endorsed and Deposited**

Upon receipt of requests and payments, user fee unit employees sorted the requests, prepared control documents, and made tentative assignments to different Chief Counsel branches. Paralegals² then screened certain types of requests to determine whether a fee was required and, if required, whether the taxpayer had submitted the correct fee amount. During the screening, paralegals also ensured that the requests were assigned to the appropriate branch in Chief Counsel. After the screening, the user fee unit employees inputted data on the fees and requests to the User Fee System.

*User fee payments were not
always timely endorsed or
deposited.*

The Treasury Financial Manual requires that funds be deposited no later than the day after they are received. However, the audit tests disclosed that user fee payments were not always timely endorsed or deposited. Checks were not timely deposited because paralegals did not screen requests daily. The checks were not timely endorsed because existing procedures did not provide for endorsing until the end of the deposit process. In addition, the unendorsed payments were not always secured, and cleaning and maintenance personnel had access to the area and the checks.

This control weakness was presented to Chief Counsel managers during our review. As a result, new procedures were immediately issued requiring the responsible offices to endorse checks as soon as the requests are received.

*It took an average of
11 calendar days to deposit
27 payments tested.*

Forty of the 120 cases in the sample were selected for analysis to determine whether the fee payments were timely deposited. However, only 27 of the 40 case files had sufficient information showing the full transaction history. According to the available records, user fee unit employees deposited the 27 payments on an average of

² A paralegal is a person trained to aid lawyers but not licensed to practice law.

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11 calendar days after the requests and payments were received in the unit. These delays were due to the frequency of the paralegal screening. The paralegals did not screen 6 of the 20 cases for over 14 days after receipt of the payment. In the remaining 7 cases, the screening information was not available. The paralegals' screening log indicated that requests had not been screened for up to 15 days. Chief Counsel stated that these cases are not screened every day due to the small volume of cases and the office's other workload demands.

More timely deposits could produce about \$13,500 per year in interest opportunity costs.

Making deposits more timely would result in better cash management practices and enable the government to have quicker use of the funds. We cannot statistically project these results to the \$9.5 million in user fees deposited during FY 1999 because judgmental sampling was used during this audit. However, since the delays are the result of the process that was used, we believe similar delays exist in the population. Therefore, we believe the results of our sample are indicative of the process used for all deposits and estimate that the government could realize about \$13,500 per year in interest opportunity costs.

Recommendation

Chief Counsel should establish procedures to ensure cases are screened daily to allow for timely deposits.

Management's Response: Paralegals who screen cases will contact daily the Technical Services Staff to determine whether cases have been received that day that will require screening. The full text of management's response is included in Appendix IV.

Conclusion

Chief Counsel properly administered the user fees submitted by taxpayers with requests for its legal guidance. However, Chief Counsel should ensure the

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requests are promptly screened upon receipt so that the fees can be immediately deposited.

Details on Cases Sampled

We judgmentally sampled a total of 120 cases from 6 different populations to determine whether user fees were properly controlled, the correct fees were received, and refunds were proper. Although we randomly selected the cases within each population, the sample sizes are not sufficient to make statistical projections. The populations and samples selected are summarized below:

- 1) During Fiscal Year (FY) 1999, Chief Counsel received 7,798 user fees. We conducted a computer analysis of the fees, based on the coding of the fee in the system, the date the fee was received, and the type of fee. This analysis identified 1,434 records where the fee charged was less than the normal fee for that activity. From these 1,434, we selected 3 separate random samples as follows:
 - Twenty of 391 records that Chief Counsel identified as eligible for a reduced fee.
 - Twenty of 620 records that Chief Counsel identified as not receiving the full fee.
 - Twenty of 423 records that Chief Counsel did not identify as receiving the full fee.
- 2) During FY 1999, Chief Counsel refunded 1,031 user fees. We conducted a computer analysis of the user fees refunded to determine the reason for the refund. Based on this analysis, we selected two random samples as follows:
 - Twenty of 446 cases refunded because Chief Counsel did not provide a ruling. This was the primary reason for issuing a refund.
 - Twenty of 532 cases refunded for reasons such as no fee required or a lower fee was applicable. These represented the next five highest reasons for issuing a refund.

Note: We did not sample from the remaining 53 refunds that were issued due to 10 other miscellaneous reasons.
- 3) During FY 1999, the Counsel Automated Systems Environment (CASE) system contained 194 records that did not show a user fee. We selected a random sample of 20 cases.
- 4) We also used two of the above random samples to determine whether user fees were timely deposited. These samples included:
 - Twenty of 620 records that Chief Counsel identified as not receiving the full fee.

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- Twenty of 423 records that Chief Counsel did not identify as receiving the full fee.

Note: We were able to obtain the case file and related payment information for only 27 of the 40 cases for this test.

Major Contributors to This Report

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Appendix III

Report Distribution List

Commissioner C

Associate Chief Counsel (Finance and Management) CC: F&M

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Associate Chief Counsel (Income Tax and Accounting) CC:IT&A

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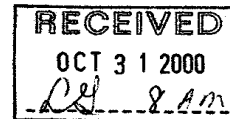
Appendix IV

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OCT 30 2000



MEMORANDUM FOR PAMELA J. GARDINER
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

for Stuart L. Brown *John C. Brown*
Chief Counsel

SUBJECT:

Draft Letter - The Office of the Chief Counsel Properly
Administered Fees Paid for Internal Revenue Service Guidance

Thank you for the opportunity to respond to your draft letter entitled "The Office of the Chief Counsel Properly Administered Fees Paid for Internal Revenue Service Guidance." This draft is in response to the September 12, 2000, memorandum from the Office of the Treasury Inspector General for Tax Administration (TIGTA), regarding the Chief Counsel user fee program administered by the Communications, Records, and User Fee Unit of the Technical Services Staff and incorporates comments/recommendations of our Procedure and Administration; Finance and Management; Income Tax and Accounting; and, Financial Institutions and Products offices.

IDENTITY OF RECOMMENDATION: TIGTA recommended that the Office of Chief Counsel establish procedures to ensure that certain cases involving changes in accounting methods (CAMs) and changes in accounting periods (CAPs) be screened daily by paralegals to allow for timely deposits of user fee checks. Other cases are already screened daily.

ASSESSMENT OF CAUSE(S): A sample (audit test) of user fee cases was reviewed to ascertain if the user fee payments were timely endorsed and deposited. The audit test disclosed that user fee payments were not always timely endorsed or deposited. One reason given for not timely depositing the fees was that paralegals did not screen the requests daily due to the small volume of cases and the office's other workload demands.

Making deposits more timely would result in better cash management practices and enable the government to have quicker use of the funds. Information is not available to statistically project these results to the \$9.5 million in user fees deposited during FY 1999 because judgmental sampling was used during the audit test. Since the delays are the result of the process that was used, similar delays probably exist in the population. Therefore, if the results of the audit test are indicative of the process used for all deposits, it is estimated that the government could realize about \$13,500 per year in interest opportunity costs.

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CORRECTIVE ACTION/MONITORING PLAN: Based upon our reviews and TIGTA recommendations, we have established a procedure effective October 16, 2000, under which the paralegals who screen CAMs and CAPs cases will contact daily the Technical Services Staff to determine whether cases have been received that day that will require screening. This new procedure will ensure that the user fee checks are deposited timely in the bank.

We do not feel that there is any information in this response that needs to be withheld from public disclosure through FOIA or any other means.

IMPLEMENTATION DATE: Beginning October 16, 2000, paralegals who screen CAMs and CAPs will, on a daily basis, contact the Technical Service Staff to notify that office of the progress made.

RESPONSIBLE OFFICIAL(S): The Associate Chief Counsel (Procedure & Administration) is responsible for the corrective action. If any additional information is required, please contact T. Wayne Thomas, at (202) 622-7560.

cc: Director, Legislative Affairs CL:L
Office of Chief Counsel CC
Associate Chief Counsel (Procedure & Administration) CC:PA
Associate Chief Counsel (Finance & Management) CC:FM
Associate Chief Counsel (Income Tax & Accounting) CC:ITA
Associate Chief Counsel (Financial Institutions & Products) CC:FIP